

AMENDED IN ASSEMBLY MARCH 22, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1525

Introduced by Assembly Members Allen and Alejo
(Principal coauthor: Senator Pavley)

January 19, 2012

An act to amend Section 15630.1 of the Welfare and Institutions Code, relating to elder or dependent adult financial abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1525, as amended, Allen. Elder or dependent adult financial abuse: mandated reporters.

Existing law requires a mandated reporter of suspected financial abuse of an elder or dependent adult to report the known or suspected instance of financial abuse to specified entities. Existing law defines a mandated reporter for these purposes as an employee or officer of a financial institution, as defined. Existing law imposes civil penalties for the failure to report financial abuse, and requires these civil penalties to be recovered in a civil action brought against the financial institution by the Attorney General, district attorney, or county counsel.

This bill would include a person or entity engaged in money transmission, as defined, in the definition of a mandated reporter of suspected financial abuse of an elder or dependent adult.

This bill also would make various technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 15630.1 of the Welfare and Institutions Code is amended to read:

15630.1. (a) As used in this section, the following definitions apply:

(1) “Financial abuse” means financial abuse as defined in Section 15610.30.

(2) ~~“Financial”~~ “Financial institution” means any of the following:

(A) A depository institution, as defined in Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(c)).

(B) An institution-affiliated party, as defined in Section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1813(u)).

(C) A federal credit union or state credit union, as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1752), including, but not limited to, an institution-affiliated party of a credit union, as defined in Section 206(r) of the Federal Credit Union Act (12 U.S.C. Sec. 1786(r)).

(3) “Mandated reporter of suspected financial abuse of an elder or dependent adult” means either of the following:

(A) An officer or employee of a financial institution.

(B) A money transmitter.

(4) “Money transmitter” means a person or entity engaged in ~~money transmission as defined in subdivision (o) of Section 2003 of the Financial Code.~~ *either of the following:*

(A) *Selling or issuing payment instruments, as defined in subdivision (q) of Section 2003 of the Financial Code.*

(B) *Receiving money for transmission, as defined in subdivision (s) of Section 2003 of the Financial Code.*

(b) (1) Any mandated reporter of suspected financial abuse of an elder or dependent adult who has direct contact with the elder or dependent adult or who reviews or approves the elder or dependent adult’s financial documents, records, or transactions, in connection with providing financial services with respect to an elder or dependent adult, and who, within the scope of his or her employment or professional practice, has observed or has knowledge of an incident, that is directly related to the transaction or matter that is within that scope of employment or professional practice, that reasonably appears to be financial abuse, or who

1 reasonably suspects that abuse, based solely on the information
2 before him or her at the time of reviewing or approving the
3 document, record, or transaction in the case of mandated reporters
4 who do not have direct contact with the elder or dependent adult,
5 shall report the known or suspected instance of financial abuse by
6 telephone or through a confidential Internet reporting tool, as
7 authorized pursuant to Section 15658, immediately, or as soon as
8 practicably possible. If reported by telephone, a written report shall
9 be sent, or an Internet report shall be made through the confidential
10 Internet reporting tool established in Section 15658, within two
11 working days to the local adult protective services agency or the
12 local law enforcement agency.

13 (2) When two or more mandated reporters jointly have
14 knowledge or reasonably suspect that financial abuse of an elder
15 or a dependent adult for which the report is mandated has occurred,
16 and when there is an agreement among them, the telephone report
17 or Internet report, as authorized by Section 15658, may be made
18 by a member of the reporting team who is selected by mutual
19 agreement. A single report may be made and signed by the selected
20 member of the reporting team. Any member of the team who has
21 knowledge that the member designated to report has failed to do
22 so shall thereafter make that report.

23 (3) If the mandated reporter knows that the elder or dependent
24 adult resides in a long-term care facility, as defined in Section
25 15610.47, the report shall be made to the local ombudsman or local
26 law enforcement agency.

27 (c) An allegation by the elder or dependent adult, or any other
28 person, that financial abuse has occurred is not sufficient to trigger
29 the reporting requirement under this section if both of the following
30 conditions are met:

31 (1) The mandated reporter of suspected financial abuse of an
32 elder or dependent adult is aware of no other corroborating or
33 independent evidence of the alleged financial abuse of an elder or
34 dependent adult. The mandated reporter of suspected financial
35 abuse of an elder or dependent adult is not required to investigate
36 any accusations.

37 (2) In the exercise of his or her professional judgment, the
38 mandated reporter of suspected financial abuse of an elder or
39 dependent adult reasonably believes that financial abuse of an
40 elder or dependent adult did not occur.

(d) Failure to report financial abuse under this section shall be subject to a civil penalty not exceeding one thousand dollars (\$1,000) or if the failure to report is willful, a civil penalty not exceeding five thousand dollars (\$5,000), which shall be paid by the financial institution that is the employer of the mandated reporter, the money transmitter, or, as applicable, the employer of the money transmitter, to the party bringing the action. Subdivision (h) of Section 15630 shall not apply to violations of this section.

(e) (1) The civil penalty provided for in subdivision (d) shall be recovered only in a civil action brought against the financial institution or the money transmitter by the Attorney General, district attorney, or county counsel. No action shall be brought under this section by any person other than the Attorney General, district attorney, or county counsel. Multiple actions for the civil penalty shall not be brought for the same violation.

(2) Nothing in the Financial Elder Abuse Reporting Act of 2005 shall be construed to limit, expand, or otherwise modify any civil liability or remedy that may exist under this or any other law.

(f) As used in this section, “suspected financial abuse of an elder or dependent adult” occurs when a person who is required to report under paragraph (3) of subdivision (a) observes or has knowledge of behavior or unusual circumstances or transactions, or a pattern of behavior or unusual circumstances or transactions, that would lead an individual with like training or experience, based on the same facts, to form a reasonable belief that an elder or dependent adult is the victim of financial abuse.

(g) Reports of suspected financial abuse of an elder or dependent adult made by an employee or officer of a financial institution or a money transmitter pursuant to this section are covered under subdivision (b) of Section 47 of the Civil Code.